UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 July 2007*.

2a)☐ This action is **FINAL**.　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *2/2/2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claims 1 – 33 have been examined.

Claim Rejections - 35 USC § 101

1.   The rejection under 35 U.S.C. 101 has been overcome by a change in Office policy.

Drawings

2.   Figures 1 and 3 should be designated by a legend such as --Prior Art-- because only that

which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37

CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37

CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not

accepted by the examiner, the applicant will be notified and informed of any required corrective

action in the next Office action. The objection to the drawings will not be held in abeyance.

Admitted Prior Art

3.   The following is from pages 1 – 3 of Specification and refers to being in accordance with
prior art.

"2. Description of Related Art:
      Object-oriented programming (OOP) has emerged as a powerful new programming tool
that enables the rapid development and implementation of functionality while permitting the
customization and reuse of objects. The Object Management Group (OMG, an international
organization for promoting the theory and practice of object-oriented software technology)
defines an industry standard architecture for a distributed object computing environment, called
the Object Management Architecture (OMA). The OMA provides a conceptual infrastructure
upon which all of the OMG's specifications are based.
      OMG defines a structure to allow integration of a wide variety of object systems called
the Common Object Request Broker Architecture (CORBA) . The CORBA model consists of the
Object Request Broker (ORB), CORBA services, CORBA facilities and Application Objects.
These components make up the primary pieces of CORBA.

A CORBA ORB is a particular type of computer system that provides particular capabilities that are defined by the CORBA specification. In order to function as a CORBA ORB, a computer system must comply with the CORBA specification. Computer systems that do not comply with the CORBA specification for being a CORBA ORB are not classified as CORBA ORBs. These computer systems that do not comply with the CORBA specification for being a CORBA ORB, however, may be coupled to the data processing system as clients and/or servers

A problem may arise in a CORBA environment because the environment is limited by the CORBA specification to being only a three-tier CORBA ORB system. The specification provides for three levels of CORBA ORBs to be coupled together. Other computer systems, such as servers and clients, may also be coupled to one or more of the CORBA ORBs. These other computer systems do not make up a level of the CORBA ORB architecture, however. The specification provides for only three levels of CORBA ORBs, and does not permit four levels of CORBA ORBs coupled together in a network.

Figure 1 is a block diagram illustrating a CORBA data processing system 100 in accordance with the prior art that complies with the CORBA standard. CORBA data processing system 100 includes three separate CORBA networks 101, 103, and 105. The CORBA specification provides for only three tiers of CORBA ORB computer systems. Therefore, each network includes only three levels, or tiers, of CORBA ORB computer systems.

CORBA network 101 includes CORBA ORBs 102, 108, 110, 120, 122, and 124. CORBA network 103 includes CORBA ORBs 104, 112, 114, 126, 128, and 130. And, CORBA network 105 includes CORBA ORBs 106, 116, 118, 132, 134, and 136.

CORBA ORBs 102, i04, and 106 all occupy a first level, or tier. CORBA ORBs 108, 110, 112, 114, 116, and 118 all occupy a second level, which is below the first level. CORBA ORBs 120, 122, 124, 126, 128, 130, 132, 134, and 136 all occupy a third level, which is below the second level. Servers and clients may be, and typically are, coupled to one or more of the CORBA ORBs. For example, servers 138 and 140 are coupled to CORBA ORB 134. Clients 142, 144, and 146 are coupled to server 138."

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted

Prior Art **(APA)** from the Description of Related Art section of the Specification pages 1 – 3, in

view of the commercial product HP OpenView as documented in the 1995 book, Focus on **HP**

OpenView.

Applicant presents the network environment as being in accordance with prior art. The

network technology the Applicant has deployed their invention is considered admitted prior art

(known at the time of filing). The need statement the Applicant is located on page three of the

Specification and reads as follows:

The following is from page 3 of the Specification
"A need exists for a method, system, and computer program product for automatically
distributing and installing software packages throughout a multi-tiered computer network, such
as a four-tier CORBA architecture."
The rejection is the installation of the HP OpenView product in the admitted prior art

network environment. The portions of the reference relied upon teach the Software Distribution

system, the ability to configure nodes and the ability of HP to interact and perform functions on

different tiers.

The last paragraph of page 184, the strategy of using the universal management processes

is covered. In other words the same abilities to access remote tiers in the network that enable the

system management are also used for software distribution.

Applicant is held to the level of ordinary skill in the art and to be aware of all pertinent

prior art (Customer Accessories, Inc. v. Jeffrey-Allan Ind. Inc., 1 USPQ2d 1196 (Fed Cir 1986).

Applicant should specifically bring to the attention of the USPTO, Why Hewlett Packard's

OpenView product can not be deployed in the multi-tiered environment (APA) to achieve the

claimed invention.

Claim 1
A method in a data processing system for automatically distributing and installing software file

packages throughout a multi-tiered computer architecture hierarchy, said hierarchy including a global tier, a hub tier that is below said global tier, and a target tier that is below said hub tier, said method comprising the steps of:

receiving, within a global computer system that is located in said global tier, a distribution request to distribute a file package to a target computer system that is located in said target tier; starting, by said global computer system, a distribution process in said hub computer system; distributing said file package and an installation process from said global computer system to said hub computer system that is located in said hub tier; automatically distributing said file package and said installation process to said target computer system from said hub computer system utilizing said distribution process; and

automatically installing, by said target computer system, said file package utilizing said installation process.

Rejection for Claim 1

APA teaches the multi-tiered network environment in the claimed invention. And HP teaches a Systems Management Platform that is intended to run and support multi-tiered environments.

OpenView teaches automatically distributing and installing software file packages (HP, pages 184, Synchronization and Change Orchestration) throughout a multi-tiered computer architecture hierarchy (HP, Supports many topologies pages 210-216, 229-230, 246-250) , said hierarchy including a global tier (HP OpenView is a global tier – ability to manage one or more Hubs – see Chapter 12 – page 245), a hub tier (HP, chapter 12 – Hubs) that is below said global tier, and a target tier that is below said hub tier (As per above and HP, pages 2 – 18), said method comprising the steps of:

receiving, within a global computer system that is located in said global tier, a distribution request to distribute a file package to a target computer system that is located in said target tier (HP, pages 179 – 182 and Chapter 12 pages 245 – 247 see Figures and pages 255-262); starting, by said global computer system, a distribution process in said hub computer system; distributing said file package and an installation process (HP, pages 182 – Software Management) from said global computer system to said hub computer system that is located in said hub tier (HP, Chapter 12) ; automatically distributing said file package and said installation process to said target computer system from said hub computer system utilizing said distribution process (as per the cited sections above); and automatically installing, by said target computer system, said file package utilizing said installation process (HP, page 181, Target System and page 205, ability to manage software on stations).

It is APA who teaches a multi-tiered environment employing CORBA. And it is HP who teaches a commercial System Management Platform product that supports a plurality of tiers and environments including CORBA (HP, page 273). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine APA and HP, because the efficiency of the product to be able to keep hardware, software and firmware up to date, "The current market success of HP's OpenView is apparent by the many internetworking vendors who use this network management system as the framework for managing bridges, routers and hubs. OpenView is installed on more than 35,000 networks worldwide, and it is expected to eclipse NetView in 1995, making it the premiere network management system. In addition, key portions

of OpenView for the basis of the Open Software Foundations (OSF) Distributed Management
Environment (DME). (HP, Preface).

Claim 2
The method according to claim 1, further comprising the steps of:
        providing a three-tier CORBA network, said CORBA network including a hub CORBA
ORB coupled to a second spoke CORBA ORB, and said spoke CORBA ORB being coupled
to a gateway CORBA ORB, wherein said hub CORBA ORB occupies said hub tier of said
architecture, said spoke CORBA ORB occupies a spoke tier of said architecture, said spoke tier
between said hub tier and a gateway tier, and said gateway CORBA ORB occupies said gateway
tier, said gateway tier being located between said gateway tier and said target tier; and coupling
said global computer system to said three tier CORBA network, said global computer system
occupies a top tier of said architecture over said first tier, said global computer system
functioning as a CORBA ORB and treating said hub CORBA ORB as a managed node.
(APA as per claim 1 and HP installation in diverse topologies of claim 1).

Claim 3
The method according to claim 1, further comprising the steps of:
        assigning a unique request identifier to said distribution request; and tracking processing
of said distribution request as it is processed by said global computer system, said hub computer
system, and said target computer system using said unique request identifier. (HP, page 244,
SNMP, has unique Identifiers).

Claim 4
The method according to claim 1, further comprising the steps of:
        determining by said global computer system whether said distribution of said file package·
and said installation process from said global computer system to said hub computer system was
successful; in response to a determination that said distribution was unsuccessful, re-attempting
said distribution. (HP, page 181, Monitor for success).

Claim 5
The method according to claim 1, further comprising the steps of:
        including a queue within said global computer system for storing distribution requests;
        in response to receiving said distribution request, placing said distribution request in said
queue; and processing a next request from said queue utilizing said global computer system. (HP,
Management Functions for Hub, pages 243 – 247, bullets on page 243 – see the ability to
download , configure).

Claim 6
The method according to claim 5, further comprising the steps of:
        determining by said global computer system whether said distribution of said file package
and said installation process from said global computer system to said hub computer system was
successful; in response to a determination that said distribution was unsuccessful, re-queueing

said distribution request by restoring said distribution request in said queue; and said global computer system making another attempt to distribute said distribution request without requiring that said distribution request be resubmitted to said global computer system. (HP, Management Functions for Hub, pages 243 – 247, bullets on page 243).

Claim 7
The method according to claim 1, further comprising the steps of:
in response to receiving said distribution request within said global computer system, locking, by said global computer system, said hub computer system to prevent said hub computer system from processing other requests while said hub computer system is processing said distribution request. (HP, Management Functions for Hub, pages 243 – 247, bullets on page 243).

Claim 8
The method according to claim 7, further comprising the steps of: locking said hub computer system using a unique request identifier that identifies said distribution request. (HP, Management Functions for Hub, pages 243 – 247, bullets on page 243).

Claim 9
The method according to claim 7, further comprising the steps of:
determining whether said hub computer system is available prior to said global computer system locking said hub computer system; in response to a determination that said hub computer system is unavailable, waiting until said hub computer system becomes available; and
in response to a determination that said hub computer system is available, locking said hub computer system. (HP, Management Functions for Hub, pages 243 – 247, bullets on page 243 – see the ability to download , configure).

Claim 10
The method according to claim 1, further comprising the steps of:
including a plurality of file package requests within said distribution request, each one of said file package requests being a request to either install a particular file package or remove a particular file package; and including in said distribution request an installation script for each one of said file requests that is a request to install a particular file package. (HP, page 182 remove and install on target).

Claim 11
The method according to claim 1, further comprising the steps of:
receiving, within said global computer system that is located in said global tier, a distribution request to distribute a plurality of file package requests to a target computer system that is in said target tier; each one of said file package requests being a request to either install a particular file package on said target or to remove a particular file package from said target; including in said distribution request an installation script for each one of said file requests that is a request to install a particular file package; starting, by said global computer system, a distribution process in said hub computer system; distributing said plurality of file packages and

an installation process from said global computer system to said hub computer system that is located in said hub tier; utilizing said distribution process within said hub to automatically distribute to said target computer system ones of said file package requests that are requests to remove a particular file package from said target computer system; automatically removing, by said target computer system, said particular file for each of said ones of said file package requests that are requests to remove a particular file; utilizing said distribution process within said hub to automatically distribute to said target computer system ones of said file package requests that are requests to install a particular file package on said target computer system;

automatically installing, by said target computer system, said particular file for each of. said ones of said file package requests that are requests to install a particular file; and said removal requests being executed prior to said installation requests. (As per claim 1 and HP, page 182 remove and install on target.)

Claim 12
A data processing system for automatically distributing and installing software file packages throughout a multi-tiered computer architecture hierarchy, said hierarchy including a global tier, a hub tier that is below said global tier, and a target tier that is below said hub tier, said system comprising: a global computer system that is located in said global tier receiving a distribution request to distribute a file package to a target computer system that is located in said target tier;

said global computer system starting a distribution process in said hub computer system;

said global computer system distributing said file package and an installation process to said hub computer system that is located in said hub tier;

said hub computer system utilizing said distribution process to automatically distributing said file package and said installation process to said target computer system; and

said target computer system automatically installing said file package utilizing said installation process. As per claim 1.

Claim 13
The system according to claim 12, further comprising:

a three-tier CORBA network, said CORBA network including a hub CORBA ORB coupled to a second spoke CORBA ORB, and said spoke CORBA ORB being coupled to a gateway CORBA ORB, wherein said hub CORBA ORB occupies said hub tier of said architecture, said spoke CORBA ORB occupies a spoke tier of said architecture, said spoke tier between said hub tier and a gateway tier, and said gateway CORBA ORB occupies said gateway tier, said gateway tier being located between said gateway tier and said target tier; and said global computer system coupled to said three tier CORBA network, said global computer system occupies a top tier of said architecture over said first tier, said global computer system functioning as a CORBA ORB and treating said hub CORBA ORB as a managed node. As per claim 2.

Claim 14
The system according to claim 12, further comprising: a unique request identifier assigned to said distribution request; and said unique request identifier for tracking processing of said

distribution request as it is processed by said global computer system, said hub computer system, and said target computer system. As per claim 3.

Claim 15
The system according to claim 12, further comprising: said global computer system determining whether said distribution of said file package and said installation process from said global computer system to said hub computer system was successful; in response to a determination that said distribution was unsuccessful, said global computer system re-attempting said distribution. As per claim 4.

Claim 16
The system according to claim 12, further comprising: a queue included within said global computer system for storing distribution requests; in response to receiving said distribution request, said   distribution request being placed in said queue; and said global computer system processing a next request from said queue. As per claim 5.

Claim 17
The system according to claim 16, further comprising: said global computer system determining whether said distribution of said file package and said installation process from said global computer system to said hub computer system was successful; in response to a determination that said distribution was unsuccessful, said distribution request being re-queueing said distribution request by restoring said distribution request in said queue; and said global computer system making another attempt to distribute said distribution request without requiring that said distribution request be resubmitted to said global computer system. As per claim 6.

Claim 18
The system according to claim 12, further comprising: in response to receiving said distribution request within said global computer system, said global computer system locking said hub computer system to prevent said hub computer system from processing other requests while said hub computer system is processing said distribution request. As per claim 7.

Claim 19
· The system according to claim 18, further comprising: said hub computer system being locked using a unique request identifier that identifies said distribution request. as per claim 8.

Claim 20
The system according to claim 18, further comprising: said global computer system determining whether said hub computer system is available prior to said global computer system locking said hub computer system; in response to a determination that said hub computer system is unavailable, said global computer system waiting until said hub computer system becomes available; and in response to a determination that said hub computer system is available, said global computer system locking said hub computer system. As per claim 9.

Claim 21

The system according to claim 12, further comprising: said distribution request including a plurality of file package requests,-each one of said file package requests being a request to either install a particular file package or remove a particular file package; and said distribution request including an installation script for each one of said file requests that is a request to install a particular file package. As per claim 10.

Claim 22
The system according to claim 12, further comprising: said global computer system that is located in said global tier receiving a distribution request to distribute a plurality of file package requests to a target computer system that is in said target tier; each one of said file package requests being a request to either install a particular file package on said target or to remove a particular file package from said target; said distribution request including an installation script for each one of said file requests that is a request to install a particular file package;
said global computer system starting a distribution process in said hub computer system;
said global computer system distributing said plurality of file packages and an installation process to said hub computer system that is located in said hub tier;
said hub computer system utilizing said distribution process included in said hub computer system to automatically distribute to said target computer system ones of said file package requests that are requests to remove a particular file package from said target computer system; said target computer system automatically removing said particular file for each of said ones of said file package requests that are requests to remove a particular file;
said hub computer system utilizing said distribution process within said hub computer system to automatically distribute to said target computer system ones of said file
package requests that are requests to install a particular file package on said target computer system; said target computer system automatically installing said
particular file for each of said ones of said file package requests that are requests to install a particular file; and said removal requests being executed prior to said installation requests.
As per claim 11.

Claim 23
A computer program product in a data processing system for automatically distributing and installing software file packages throughout a multi-tiered computer architecture hierarchy, said hierarchy including a global tier, a hub tier that is below said global tier, and a target tier that is below said hub tier, said product comprising:
instruction means for receiving, within a global computer system that is located in said global tier, a distribution request to distribute a file package to a target computer system that is located in said target tier; instruction means for starting, by said global computer system, a distribution process in said hub computer system;
instruction means for distributing said file package and an installation process from said global computer system to said hub computer system that is located in said hub tier; instruction means for automatically distributing said file package and said installation process to said target computer system from said hub computer system utilizing said distribution process; and
instruction means for automatically installing, by said target computer system, said file package utilizing said installation process. As per claim 1.

Claim 24

The product according to claim 23, further comprising: a three-tier CORBA network, said CORBA network including a hub CORBA ORB coupled to a second spoke CORBA ORB, and said spoke CORBA ORB being coupled to a gateway CORBA ORB, wherein said hub CORBA ORB occupies said hub tier of said architecture, said spoke CORBA ORB occupies a spoke tier of said architecture, said spoke tier between said hub tier and a gateway tier, and said gateway CORBA ORB occupies said gateway tier, said gateway tier being located between said gateway tier and said target tier; and instruction means for coupling said global computer system to said three-tier CORBA network, said global computer system occupies a top tier of said architecture over said first tier, said global computer system functioning as a CORBA ORB and treating said hub CORBA ORB as a managed node. As per claim 2.

Claim 25

The product according to claim 23, further comprising: instruction means for assigning a unique request identifier to said distribution request; and instruction means for tracking processing of said distribution request as it is processed by said global computer system, said hub computer system, and said target computer system using said unique request identifier. As per claim 3.

Claim 26

The product according to claim 23, further comprising: instruction means for determining by said global computer system whether said distribution of said file package and said installation process from said global computer system to said hub computer system was successful; in response to a determination that said distribution was unsuccessful, instruction means for re attempting said distribution. As per claim 4.

Claim 27

The product according to claim 23, further comprising: instruction means for including a queue within said global computer system for storing distribution requests; in response to receiving said distribution request, instruction means for placing said distribution request in said queue; and instruction means for processing a next request from said queue utilizing said global computer system. As per claim 5.

Claim 28

The product according to claim 27, further comprising: instruction means for determining by said global computer system whether said distribution of said file package and said installation process from said global computer system to said hub computer system was successful; in response to a determination that said distribution was unsuccessful, instruction means for requeueing said distribution request by restoring said distribution request in said queue; and said global computer system making another attempt to distribute said distribution request without requiring that said distribution request be resubmitted to said global computer system. As per claim 6.

Claim 29

The product according to claim 23, further comprising: in response to receiving said distribution request within said global computer system, instruction means for locking, by said global computer system, said hub computer system to prevent said hub computer system from processing other requests while said hub computer system is processing said distribution request. As per claim 7.

Claim 30
The product according to claim 29, further comprising: instruction means for locking said hub computer system using a unique request identifier that identifies said distribution request. As per claim 8.

Claim 31
The product according to claim 29, further comprising:
instruction means for determining whether said hub computer system is available prior to said global computer system locking said hub computer system; in response to a determination that said hub computer system is unavailable, instruction means for waiting until said hub computer system becomes available; and in response to a determination that said hub computer system is available, instruction means for locking said hub computer system. As per claim 9.

Claim 32
The product according to claim 23, further comprising: instruction means for including a plurality of file package requests within said distribution request, each one of said file package requests being a request to either install a particular file package or remove a particular file package; and instruction means for including in said distribution request an installation script for each one of said file requests that is a request to install a particular file package. As per claim 10.

Claim 33
The product according to claim 23, further comprising:
instruction means for receiving, within said global computer system that is located in said global tier, a distribution request to distribute a plurality of file package requests to a target computer system that is in said target tier; each one of said file package requests being a request to either install a particular file package on said target or to remove a particular file package from said target; instruction means for including in said distribution request an installation script for each one of said file requests that is a request to install a particular file package; instruction means for starting, by said global computer system, a distribution process in said hub computer system; instruction means for distributing said plurality of file packages and an installation process from said global computer system to said hub computer system that is located in said hub tier; instruction means for utilizing said distribution process within said hub to automatically distribute to said target computer system ones of said file package requests that are requests to remove a particular file package from said target computer system; instruction means for automatically removing, by said target computer system, said particular file for each of said ones of said file package requests that are requests to remove a particular file;

                    instruction means for utilizing said distribution process within said hub to
automatically distribute to said target computer system ones of said file package requests that are
requests to install a particular file package on said target computer system; instruction means for
automatically installing, by said target computer system, said particular file for each of said ones
of said file package requests that are requests to install a particular file; and said removal
requests being executed prior to said installation requests. As per claim 11.

Response to Arguments

6.   Applicant's arguments filed on July 20, 2007, have been fully considered but they are not

persuasive.

Applicant is held to the level of ordinary skill in the art and to be aware of all pertinent prior art

(Customer Accessories, Inc. v. Jeffrey-Allan Ind. Inc., 1 USPQ2d 1196 (Fed Cir 1986).

Summarizing the prior arguments of the Applicant.

On page 14 of the response Applicant states HP OpenView does not teach the "three tiers of

computing systems" and "a global computing system". In the broadest interpretation the

Applicant's "global computing system" is met by the CORBA ORB. HP on page 271 in the

section Data Storage uses an ORB (part of CORBA by definition).

On page 15 Applicant states HP can not distribute and install file packages throughout a multi-

tiered computer architecture. Applicant lists different tiers. HP on pages 179 – 185 teaches

distributing software. The last paragraph of page 184, the strategy of using the universal

management processes is covered. In other words the same abilities to access remote tiers in the

network that enable the system management are also used for software distribution. Applicant on

page 16 seems to miss this point and points away, by focusing on the system management

aspects of HP. The cited section show HP supporting many different topologies. Exactly, why

IBM states HP can not be installed and perform the claimed invention has gone unanswered.

        The new grounds of rejection will enable IBM to tell what technical limitations prevent
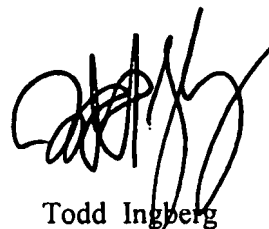HP from performing the claimed invention.

Correspondence Information

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Todd Ingberg whose telephone number is (571) 272-3723. The

examiner can normally be reached on during the work week..

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000,

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Primary Examiner
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